

Exhibit 15

United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.,
Civil Action No. 01-12257-PBS

Exhibit to the July 24, 2009, Declaration of George B. Henderson, II
In Support of United States' Common Memorandum of Law in Support of Cross-Motions for
Partial Summary Judgment and in Opposition to the Defendants' Motions for Summary
Judgment

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THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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In Re: PHARMACEUTICAL INDUSTRY) MDL No. 1456
AVERAGE WHOLESALE PRICE LITIGATION) Master File No.
-----) 01-CV-12257-PBS

THIS DOCUMENT RELATES TO:)
United States of America ex rel.) Hon. Patti B.
Ven-A-Care of the Florida Keys,) Saris
Inc., et al., v. Dey, Inc., et al.,)
Civil Action No. 05-11084-PBS;)
and United States of America ex) DEPOSITION OF
rel. Ven-A-Care of the Florida) THE NEW MEXICO
Keys, Inc., et al., v. Boehringer) DEPARTMENT OF
Ingelheim Corp., et al., Civil) HUMAN SERVICES
Action No. 07-10248-PBS;) by ROBERT J.
and United States ex rel. Ven-A-Care) STEVENS
of the Florida Keys v. Abbott)
Laboratories, Inc., Civil Action) DECEMBER 15,
Nos. 06-CV-11337 and 07-CV-11618) 2008
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1 DEPOSITION OF ROBERT J. STEVENS

2 December 15, 2008

3 9:23 a.m.

4 Hilton Santa Fe Historic Plaza

5 100 Sandoval Street

6 Santa Fe, New Mexico 87501

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9 PURSUANT TO THE FEDERAL RULES OF CIVIL
10 PROCEDURE, this deposition was:

11
12 TAKEN BY: DOUGLAS E. JULIE, ESQ.
13 Attorney for Dey, Inc., Dey L.P., Inc.,
14 and Dey L.P.
15

16 REPORTED BY: Jan A. Williams, RPR, CCR 14
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1 Q. And what percentage are enrolled as
2 Medicaid providers?

3 A. Approximately 96 or 97 percent.

4 Q. Okay. To determine estimated
5 acquisition costs -- and by the way, how many
6 NDCs are covered by the program?

7 A. Well, I know that at one point we were
8 probably approaching about 150,000 different NDC
9 codes.

10 Q. To determine an estimated acquisition
11 costs for those tens of thousands of NDCs covered
12 by your program, does your state need pricing
13 information?

14 MR. JULIE: Objection to form.

15 THE WITNESS: Yes, it's the only way
16 that we can maintain pricing for the program.

17 BY MR. RIKLIN:

18 Q. And as I understand it, at least for
19 the past number of years, your state source of
20 pricing information is First DataBank?

21 A. Yes, it is.

22 Q. Or at least a primary source, correct?

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1 A. Yes.

2 Q. For how long have you been -- have you
3 been using First DataBank's drug database?

4 A. We started in 1990, January 1st.

5 Q. Do you get that data in electronic
6 form?

7 A. Yes. It's supplied to our fiscal agent
8 in electronic form, then it appears in our
9 system.

10 Q. Is that what your state relies on to
11 determine estimated acquisition costs?

12 MR. JULIE: Objection to form.

13 THE WITNESS: Yes, it is.

14 BY MR. RIKLIN:

15 Q. What pricing information does First
16 DataBank provide?

17 A. They provide the AWP price or they can
18 provide the AWP price less any percentage. At
19 various times we have applied the percentage, and
20 other times they have sent us the information
21 with the percentage already applied.

22 Q. Is the information that your fiscal

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1 agent receives from First DataBank updated on a
2 regular basis?

3 A. Yes, I believe we're using weekly
4 updates now.

5 Q. Okay. And how frequently do price
6 changes occur, do you know?

7 A. Well, they can occur on virtually any
8 day of the year. But we still implement them in
9 the weekly update.

10 Q. How regularly are new drugs added to
11 the database?

12 MR. JULIE: Objection to form.

13 THE WITNESS: Again they can appear
14 probably on any day of the week. But they are
15 brought into the weekly update of our pharmacy
16 database also.

17 BY MR. RIKLIN:

18 Q. Is it important for New Mexico to have
19 current updated information?

20 MR. JULIE: Objection to form.

21 THE WITNESS: Yes, it is.

22 BY MR. RIKLIN:

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1 Q. Why is that?

2 A. Well, because one of the issues that
3 had always been an issue with the pharmacy
4 providers was that if we were late in reflecting
5 price changes that the manufacturer had made,
6 that it would create a financial problem for
7 them. And also if they go to dispense a drug
8 item that is new and if we don't have it in our
9 system, there's virtually no way that they can
10 bill for that drug item.

11 MR. JULIE: Same objection.

12 BY MR. RIKLIN:

13 Q. Mr. Stevens, would it be possible for
14 New Mexico's pharmacy program to obtain on a
15 regular basis individual AWP's for all the NDCs
16 covered by your program without access to pricing
17 information from a third party such as First
18 DataBank?

19 MR. JULIE: Objection to form.

20 THE WITNESS: No. Even years ago it
21 was impossible for us to just work from notices
22 from the manufacturer.